

No. _____

IN THE COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

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EL PASO, TEXAS
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ELIZABETH G. FLORES
Clerk

IN RE PETER ARTHUR FIERRO
a/k/a ART FIERRO,
Relator.

PETITION FOR WRIT OF MANDAMUS

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RELATOR REQUESTS ORAL ARGUMENT AND EMERGENCY RELIEF

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INTRODUCTION

COMES NOW, Peter Arthur Fierro a/k/a Art Fierro (“**Relator**”), and submits this Petition for Writ of Mandamus complaining of Dora Oaxaca, El Paso County Democratic Party Chairperson, (“**Oaxaca**” or “**Respondent**”) and in support thereof will show the following:

STATEMENT OF THE CASE

This mandamus proceeding arises out of Respondent’s denial of Relator’s written request to reject Real Party of Interest Claudia Ordaz-Perez’s (“**Ordaz-Perez**”) Application for a Place on the General Primary Ballot for Texas House Representative, District 79 (“**Application**”). Specifically, on December 13, 2021, Ordaz-Perez filed her Application as a candidate for Texas House Representative for District 79 (“**District 79**”). [Tab 1].¹ Ordaz-Perez stated in her Application that she resides at 11372 David Carrasco, El Paso, Texas (“**Residence**”) and that she has been living in District 79—the territory for which she is seeking office—for two (2) months. [Tab 1]. Ordaz-Perez executed her Application before a notary public and therein attested that the information contained within it was true and correct. [Tab 1].

¹ See Tab 17, an Affidavit executed by Relator Peter Arthur Fierro a/k/a Art Fierro, which is inclusive of Tabs 1, 2, 5, and 9. This Affidavit asserts that the aforementioned tabs contain true and correct copies of documents that are submitted in the Appendix of this Petition as exhibits.

On December 14, 2021, Relator submitted correspondence to Respondent requesting that Respondent, as the Chairperson for the El Paso County Democratic Party, reject Ordaz-Perez's Application for Texas House Representative for District 79. [Tab 2]. Relator asserted in his correspondence that Ordaz-Perez does not meet the requirements of Texas Constitution Art. III, Section 7 [Tab 3] for a House Representative, as she had not resided in District 79 for one year preceding the General Election. [Tab 2]. Relator further indicated that Ordaz-Perez also did not meet the requirements set out in TEX. ELEC. CODE § 141.001(a)(5)(A) [Tab 4] for candidacy, as she had not resided in District 79 for six months immediately preceding the date of the regular filing deadline for her Application for a place on the ballot for the General Election, which was December 13, 2021. [Tab 2]. In response, Respondent denied Relator's request that she reject Ordaz-Perez's Application via email on December 16, 2021. Respondent claimed that Ordaz-Perez met all candidate qualifications for public office and all requirements for a place on the 2022 General Democratic Primary Ballot per Texas Constitution, Article III, Section 7 [Tab 3], as Ordaz-Perez would meet the 12-month residency requirement before the November 8, 2022 General Election. [Tab 5].

Relator asserts that Ordaz-Perez does not meet the requirements to be qualified for a place on the ballot for either the Primary Election or the November 8, 2022 General Election and as such, Respondent's denial of Relator's request to reject

Ordaz-Perez's Application was in error. For these reasons, Relator respectfully petitions this Court to declare Respondent's actions inappropriate and to order Respondent to enforce the Texas Constitution and the Texas Election Code by declaring Ordaz-Perez ineligible to be placed on the ballot as a candidate for Texas House Representative for District 79, in any aspect of the upcoming election, including the Primary and General Elections.

STATEMENT OF JURISDICTION

This Court has jurisdiction to issue this Writ of Mandamus pursuant to TEX. ELEC. CODE Section 273.061 [Tab 6], which provides:

The supreme court or a court of appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election or a political party convention, regardless of whether the person responsible for performing the duty is a public officer.

TEX. ELEC. CODE § 273.061(a). [Tab 6]. "Mandamus relief lies exclusively with the appellate courts of our state, not with its district courts." *Bejarano v. Moody*, 901 S.W.2d 570, 571 (Tex. App.—El Paso 1995) (citing *Sears v. Bayoud*, 786 S.W.2d 248, 249 (Tex. 1990); *Strachan v. Lanier*, 867 S.W.2d 52, 53 (Tex. App.—Houston [1st Dist.] 1993, orig. proceeding)).

STATEMENT REGARDING ORAL ARGUMENT

Relator respectfully requests that this Court grant oral argument, as oral argument would give the Court a more complete understanding of the facts presented

in this appeal. *See* TEX. R. APP. P. 39.1(c). [Tab 7]. The parties would be able to answer any outstanding questions the Court may have after reviewing all pleadings and responsive pleadings. Relator believes that oral argument would aid the Court in deciding this case. *See* TEX. R. APP. P. 38.1(e) [Tab 8] and TEX. R. APP. P. 39.1(d). [Tab 7].

ISSUES PRESENTED FOR REVIEW

- Issue 1: Is Ordaz-Perez eligible to be placed on the Democratic ballot as a candidate for Texas House Representative, District 79, pursuant to the Texas Constitution, Article III, Section 7? [Tab 3].
- Issue 2: Is Ordaz-Perez eligible to be placed on the Democratic ballot as a candidate for Texas House Representative, District 79, pursuant to the TEX. ELEC. CODE § 141.001(a)(5)(A)? [Tab 4].

STATEMENT OF FACTS

The deadline to file for a place on the ballot as a candidate for Texas House Representative, District 79 for the November 8, 2022 General Election was December 13, 2021. [Tab 2]. On October 11, 2021, approximately two months prior to filing her Application for candidacy for Texas House Representative for District 79, Ordaz-Perez changed her address on her voter registration to that of a residence located at 11372 David Carrasco, El Paso, Texas, which is located within District 79. [Tab 9]. On December 13, 2021, Ordaz-Perez filed her Application to be placed on the ballot as a Democratic Texas House Representative candidate for District 79. [Tab 1]. Ordaz-Perez stated in her Application that she had resided in the territory in which she sought office—District 79—for two (2) months and listed her address as the residence on David Carrasco. [Tab 1]. Ordaz-Perez also included her voter registration number in her Application. Ordaz-Perez's Application was signed by Ordaz-Perez, swearing that all statements included in her Application were true and correct, and was notarized by a notary public.

On December 15, 2021, Relator sent correspondence to Respondent, the El Paso County Democratic Chairperson, requesting that she reject Ordaz-Perez's Application to be placed on the ballot as a candidate for Texas House Representative for District 79. [Tab 2]. Relator's correspondence asserted that Ordaz-Perez did not qualify to be on the ballot for District 79 under the Texas Constitution because she

had not resided within the geographic boundaries of District 79 for one year prior to the General Election. [Tab 2]. Relator also asserted that Ordaz-Perez did not qualify to be placed on the ballot as a candidate for District 79 because she had not lived within the boundaries of the district for six (6) months immediately preceding the filing deadline of December 13, 2021. [Tab 2]. Relator's correspondence cited Texas Constitution Article III, Section 7 [Tab 3] and TEX. ELEC. CODE § 141.001(a)(5)(A) [Tab 4] as authority for his request to Respondent to reject Ordaz-Perez's Application for candidacy for Texas House Representative for District 79. [Tab 2].

On December 16, 2021, Respondent responded via email to Relator's request to reject Ordaz-Perez's Application. [Tab 5]. In her email, Respondent denied Relator's request, stating that Ordaz-Perez met all the requirements of the Texas Constitution, Article III, Section 7. [Tab 3]. Respondent specifically stated that Ordaz-Perez will meet the twelve-month residency requirement, as she will be a resident of District 79 for the required 12-months prior to the November 8, 2022 General Election. [Tab 5]. However, Respondent did not address Relator's objection made pursuant to TEX. ELEC. CODE § 141.001(a)(5)(A) [Tab 4], that Ordaz-Perez did not qualify as a candidate because she had not lived within the geographic boundaries of District 79 for six months immediately preceding the filing deadline of December 13, 2021.

Relator asserts that Respondent erred in denying his request for Respondent to reject Ordaz-Perez's Application, as she does not fulfill the eligibility requirements for candidacy for Texas House Representative, District 79 for either the Primary Election or the November 8, 2022 General Election. For that reason, Relator files this Petition.

SUMMARY OF THE ARGUMENT

On December 15, 2021, Relator sent correspondence to Respondent requesting that Respondent declare Ordaz-Perez ineligible for candidacy for Texas House Representative for District 79 in the upcoming Primary Election and the November 8, 2022 General Election because: (1) in order to be eligible for candidacy, Ordaz-Perez was required to have been a resident of District 79 by no later than November 8, 2021 and on the date of the General Election, November 8, 2022, Ordaz-Perez will not meet that requirement; and, 2) Ordaz-Perez had not resided within District 79 for the six months immediately preceding the December 13, 2021 deadline to file for her candidacy for office. Respondent rejected Relator's request to declare Ordaz-Perez ineligible for candidacy pursuant to Texas Constitution Art. III, § 7 [Tab 3] and TEX. ELEC. CODE § 141.001(a)(5)(A). [Tab 4]. Because Ordaz-Perez does not meet the residency requirements for candidacy for either the Primary Election or for the General Election, and because Respondent failed to comply with her duties as prescribed by the Texas Constitution and Texas

Election Code and declare Ordaz-Perez ineligible, Relator is entitled to mandamus relief.

ARGUMENT

Real Party in Interest, Ordaz-Perez is ineligible for candidacy for both the Primary Election and the November 8, 2022 General Election for Texas House Representative for District 79. Respondent erred in failing to reject Ordaz-Perez's Application upon Relator's written request due to Ordaz-Perez's ineligibility. For that reason, Relator asserts that he is entitled to mandamus relief from this Court to direct Respondent to perform the duties imposed on her as the El Paso County Democratic Chairperson and declare Ordaz-Perez ineligible as a candidate for District 79.

I. Standard for Mandamus Relief

Writs of mandamus are issued to control the conduct of an officer of government, judicial or administrative, only when the duty to do the act commanded is clear and definite and involves the exercise of no discretion—that is, when the act is ministerial. *Turner v. Pruitt*, 342 S.W.2d 422, 423 (1961); *Womack v. Berry*, 291 S.W.2d 677, 682 (1956). An act is ministerial when the law clearly spells out the duty to be performed by the official with sufficient certainty that nothing is left to the exercise of discretion. *Parrish v. Wright*, 293 S.W. 659, 663 (Tex. Civ. App.—Amarillo 1927, writ ref'd); *Depoyster v. Baker*, 34 S.W. 106, 107 (1896). A writ of mandamus may be issued to compel the performance of any duty imposed by law in

connection with the holding of an election. TEX. ELEC. CODE §273.061(a). [Tab 6]. A duty placed on an officer of a political party by the Texas Election Code is enforceable by mandamus in the same manner as if the party officer were a public officer. TEX. ELEC. CODE ANN. § 161.009 [Tab 10]; *In re Perez*, 508 S.W.3d 500, 503 (Tex. App.—El Paso 2016, no pet.).

TEX. ELEC. CODE § 273.061 [Tab 6] provides that mandamus relief lies exclusively with the appellate court, not the district courts. TEX. ELEC. CODE § 273.061(a) [Tab 6]; *Bejarano v. Moody*, 901 S.W.2d 570, 571 (Tex. App.—El Paso 1995, no writ). Relator petitions this Court to compel Respondent to perform the duties imposed on her by the Texas Constitution and Texas Election Code and declare Ordaz-Perez ineligible as a candidate for District 79.

II. Requirements for Declaration of Candidate Ineligibility

The procedures for obtaining an administrative declaration that a candidate is ineligible for office are set forth in TEX. ELEC. CODE § 145.003. [Tab 11]. Specifically, TEX. ELEC. CODE § 145.003(b)(1) [Tab 11] provides that a candidate in the general election for state and county officers may be declared ineligible before the 30th day preceding election day by the party officer responsible for certifying the candidate's name for placement on the general election ballot, in the case of a candidate who is a political party's nominee. TEX. ELEC. CODE § 145.003(b)(1) [Tab 11]; *In re Perez*, 508 S.W.3d at 503–504. Under TEX. ELEC. CODE § 145.003(c)

[Tab 11], a candidate in an election other than the general election for state and county officers may be declared ineligible before the beginning of early voting by personal appearance by the authority with whom an application for a place on the ballot for the office sought by the candidate is required to be filed. TEX. ELEC. CODE § 145.003(c) [Tab 11]; *In re Perez*, 508 S.W.3d at 503-504.

A candidate may be declared ineligible under TEX. ELEC. CODE § 145.003 [Tab 11] only if: (1) the information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office; or (2) facts indicating that the candidate is ineligible are conclusively established by another public record. TEX. ELEC. CODE § 145.003(b) and TEX. ELEC. CODE § 145.003(f) [Tab 11]; *In re Perez*, 508 S.W.3d at 503–504 (citing *In re Palomo*, 366 S.W.3d 193, 194 (Tex. 2012)). TEX. ELEC. CODE § 145.003(g) [Tab 11] places a duty on the “appropriate authority” to promptly review the application when presented for a place on the ballot or another public record containing information pertinent to a candidate's eligibility. *Id.* § 145.003(g). [Tab 11]. If the authority determines that the record establishes ineligibility as provided by subsection (f) [Tab 11], “the authority shall declare the candidate ineligible.” § 145.003(g). [Tab 11].

The statutory duty imposed by TEX. ELEC. CODE § 145.003 [Tab 11] to declare a candidate ineligible is a “duty imposed by law.” *In re Perez*, 508 S.W.3d at 504 (citing *In re Cullar*, 320 S.W.3d 560, 565 (Tex. App.—Dallas 2010, orig.

proceeding); *In re Osborn*, No. 03–13–00272–CV, 2013 WL 9797298 at *1 (Tex. App.–Austin, April 30, 2013, orig. proceeding)). Consequently, the failure to act is subject to mandamus review. *See* TEX. ELEC. CODE § 273.061 [Tab 6]; *In re Osborn*, No. 03–13–00272–CV, 2013 WL 9797298 at *1.

a. Ordaz-Perez is ineligible for candidacy for Texas House Representative for District 79 pursuant to Texas Constitution Article III, Section 7. [Tab 3].

Pursuant to the Texas Constitution, an individual seeking office as a representative shall be a resident of the district for which they shall be chosen for one year preceding their election. TEXAS CONST. ART. III., § 7. [Tab 3]. The General Election for the representative for District 79 is to be held on November 8, 2022. Therefore, in order to be eligible for candidacy, Ordaz-Perez was required to have been a resident of District 79 no later than November 8, 2021. On the dates of both the Primary Election—March 1, 2022—and the General Election—November 8, 2022—Ordaz-Perez will not meet that requirement, as she will not have been a resident of District 79 for one year preceding the election.

TEX. ELEC. CODE § 11.003 [Tab 12] provides that “a person may vote only in the election precinct in which the person resides.” TEX. ELEC. CODE § 11.003. [Tab 12]. “A registered voter who changes residence to another election precinct in the same county, if otherwise eligible, may vote a full ballot in the election precinct of former residence until the voter’s registration becomes effective in the new precinct

if the voter satisfies the residence requirements prescribed by TEX. ELEC. CODE § 11.004 [Tab 13] and submits a statement of residence in accordance with that Section.” TEX. ELEC. CODE § 11.004. [Tab 13]. TEX. ELEC. CODE § 13.143 [Tab 14] states that changes to an individual’s residence on their voter registration become effective 30 days after the application is submitted to the registrar. TEX. ELEC. CODE § 13.143(a). [Tab 14].

On October 12, 2021, Ordaz-Perez submitted a change of residence on her voter registration to the El Paso County Elections Office in order to be able to vote in District 79. [Tab 9]. As previously stated, TEX. ELEC. CODE § 13.143 [Tab 14] indicates that a change of address for voter registration does not become effective until 30 days after the application is submitted to the registrar. *Id.* [Tab 14]. Therefore, because Ordaz-Perez’s change of residence was submitted on October 12, 2021, her change of residence on her voter registration would not have been effective until November 11, 2021. The Primary Election is March 1, 2022; the General Election is November 8, 2022. As such, Ordaz-Perez would not be in compliance with the Texas Constitution to seek office as a representative of District 79 because she will not have been a resident of District 79 for a period of one year prior to either the Primary Election or the General Election—for the General Election, she fails to meet this requirement by three days. TEXAS CONST. ART. III, § 7. [Tab 3]. Respondent failed to recognize that Ordaz-Perez did not comply with

this requirement and erred in determining that Ordaz-Perez would meet the 12-month residency requirement before the November 8, 2022 General Election. Because Respondent failed to comply with her statutorily prescribed duties to declare Ordaz-Perez ineligible for candidacy for District 79 when she denied Relator's request to reject Ordaz-Perez's Application, Relator is entitled to mandamus relief from this Court.

b. Ordaz-Perez is ineligible for candidacy for Texas State Representative for District 79 pursuant to the Texas Election Code.

On December 13, 2021, Ordaz-Perez filed her Application to be a candidate for District 79, wherein she stated that she had lived in the territory from which she is seeking office—District 79—for two (2) months. [Tab 1]. Ordaz-Perez executed her Application with her signature, affirming that the information contained within it was true and correct. Her Application was also notarized, further affirming the veracity of the information in it as provided by Ordaz-Perez. [Tab 1]. However, on its face, Ordaz-Perez's Application plainly and clearly indicates that she has not been a resident of District 79 for the six months immediately preceding the date of the regular filing deadline for the candidates' applications for a place on the ballot for the November 8, 2022 General Election. Ordaz-Perez herself has stated in a signed and notarized document that she has only been a resident of District 79 for two months. As such, Ordaz-Perez is ineligible for candidacy for House Representative for District 79.

TEX. ELEC. CODE § 141.001 [Tab 4] sets out the general requirements for individuals to run for public office in Texas. Section 141.001 [Tab 4] requires among other things, for a candidate to:

(5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:

(A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot.

TEX. ELEC. CODE § 141.001(a)(5)(A). [Tab 4].

This Court in *In re Perez* held that the term “territory” in TEX. ELEC. CODE § 141.001 [Tab 4] is to be interpreted to mean the geographic area in which a candidate seeks office. *In re Perez*, 508 S.W.3d at 506. Therefore, in this instance, the territory from which the office is elected is District 79. Ordaz-Perez was thus required to have resided in District 79 for six months immediately preceding the filing deadline for candidacy for a place on the ballot in District 79.

A statute is to be interpreted in such a manner to give effect to the Legislature’s intent as expressed by the language of the statute. *Texas Mutual Insurance Company v. Ruttiger*, 381 S.W.3d 430, 452 (Tex. 2012). A court must consider the definitions prescribed by the Legislature and any technical or particular meaning the words have acquired. TEX. GOV’T CODE § 311.011(b). [Tab 15]. Legislative intent is determined by looking at the plain meaning of the words chosen

by the Legislature. *Ruttiger*, 381 S.W.3d at 342. A court must presume that the Legislature deliberately and purposefully selected words and phrases it enacts as well as deliberately and purposefully omitted words and phrases it did not enact. *Id.* If the statutory text is clear, it is determinative of legislative intent unless the plain meaning of the statute's words would produce an absurd result. *Id.* When statutory text is susceptible to more than one reasonable interpretation, a court will look beyond its language for assistance in determining legislative intent. *Id.* This Court on two separate occasions has reviewed TEX. ELEC. CODE § 141.001 [Tab 4] and found the statute to be clear and unambiguous and has not found the need in either instance to look beyond the plain meaning of the statute. *See In re Dominguez*, 621 S.W.3d 899 (Tex. App.—El Paso 2021, no pet.); *In re Perez*, 508 S.W.3d at 505–06. In this instance, once again, the Court need look no further than the statutory text to determine the plain meaning of the statute, which clearly dictates Ordaz-Perez's ineligibility for candidacy for District 79.

Ordaz-Perez's sworn statement in her Application clearly establishes that she has not resided in District 79 as required by TEX. ELEC. CODE § 141.001(a)(5)(A) [Tab 4] for the necessary six months immediately preceding the December 13, 2021 deadline to file for candidacy. Ordaz-Perez's Application for office, dated December 13, 2021, specifically states that she had resided in District 79 for only two (2) months prior to filing said Application. [Tab 1]. Ordaz-Perez attested to the veracity

of the information by having the document notarized. Where a person submits to the jurisdiction of a notary public for the purpose of acknowledging an instrument, a certificate is conclusive of the facts therein stated, unless fraud or imposition is alleged and proved. *Gomez v. Riddle*, 334 S.W.2d 197, 199 (Tex. Civ. App.—San Antonio 1960, no writ). Further, in *McClelland v. Sharp*, the court found that records and representations made by a candidate are compelling to establish a candidate's disqualification. *McClelland v. Sharp*, 430 S.W.2d 518, 522 (Tex. Civ. App.—Houston [14th Dist.] 1968, no writ). Without question, Ordaz-Perez's signed and sworn Application stating that she had only resided in District 79 for two months as of the filing deadline is compelling enough on its face to establish her disqualification.

In her response to Relator's correspondence request to find Ordaz-Perez ineligible for candidacy for District 79, Respondent failed to address, and essentially ignored, Ordaz-Perez's ineligibility for candidacy based on her failure to meet the six-month residency requirement for District 79. [Tab 5]. . TEX. ELEC. CODE § 141.001 [Tab 4] clearly and unambiguously states that a candidate for territory must reside in the district for six months prior to the deadline for a candidate's application for a place on the ballot. TEX. ELEC. CODE § 141.001(a)(5)(A). [Tab 4]. Ordaz-Perez's own filings establish that she had not resided in District 79 for the six months immediately preceding the filing deadline for candidacy. Because of this,

Respondent had a duty as Chairperson of the Democratic Party for El Paso County to find Ordaz-Perez ineligible for candidacy for both the March 1, 2022 Primary Election and the November 8, 2022 General Election. See TEX. ELEC. CODE § 172.029. [Tab 16]. Respondent has failed to comply with the duties imposed upon her by TEX. ELEC. CODE § 145.003 [Tab 11], which requires her to declare Ordaz-Perez ineligible due to her failure to meet the statutory residency requirement. Therefore, mandamus relief is not only appropriate, but necessary.

PRAYER

For these reasons, Relator respectfully requests that the Court grant this Petition for Writ of Mandamus. Relator requests that this Court set this Petition for an expedited hearing and respectfully moves the Court to grant Relator mandamus relief before January 12, 2022, after which deadline Relator will suffer irreparable harm. Relator also prays for all other and further relief to which he is entitled in both equity and law.

Respectfully submitted,

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CERTIFICATION

Pursuant to Texas Rule of Appellate Procedure 52.3(j), I certify that I have reviewed this petition for writ of mandamus and concluded that every factual statement herein is supported by competent evidence in the appendix or record.

/s/ Rene Ordoñez
RENE ORDOÑEZ

CERTIFICATE OF COMPLIANCE

This document complies with the type volume limitations of Tex. R. App. P. 9.4(i) it contains 2631 words, excluding the parts exempted by Tex. R. App. P. 9.4(i)(1).

/s/ Rene Ordoñez

RENE ORDOÑEZ

CERTIFICATE OF SERVICE

Undersigned counsel hereby acknowledges that, on December 30th, 2021, a copy of the above Petition for Writ of Mandamus was served by certified mail, return receipt requested, to:

DORA OAXACA

El Paso Democratic Party

Chairperson

El Paso County Democratic Party

1401 E. Montana Ave., Suite E

El Paso, Texas 79902

CLAUDIA ORDAZ PEREZ

11372 David Carrasco

El Paso, Texas 79936

/s/ Rene Ordoñez

RENE ORDOÑEZ

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

Before me, the undersigned notary, on this day personally appeared **PETER ARTHUR FIERRO a/k/a ART FIERRO**, a person whose identity is known to me. After I administered an oath to affiant, Affiant testified:

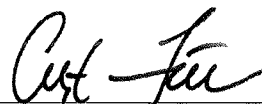
“My name is **PETER ARTHUR FIERRO a/k/a ART FIERRO**. I am over the age of twenty-one years, am competent to make an oath, am familiar with, and have knowledge of all facts and matters stated in this Affidavit and all the facts and matters stated herein are true and correct.

I am Relator in and for the Petition for Writ of Mandamus filed in this matter.

I have reviewed every document contained in the Appendix to the Petition for Writ of Mandamus.

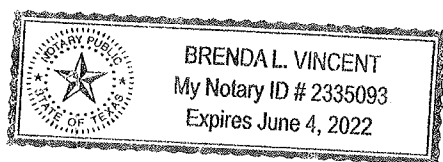
I have personal knowledge that every document contained to the Appendix to the Petition for Writ of Mandamus is a true and correct copy of the original.

I have personal knowledge that every document that is material to my claim for relief is included in the Petition for Writ of Mandamus and in the Appendix to the Writ of Mandamus.”



PETER ARTHUR FIERRO a/k/a ART FIERRO

SWORN TO and **SUBSCRIBED** before me by **PETER ARTHUR FIERRO a/k/a ART FIERRO** on this the 30th day of December 2021.





**NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS**

No. _____

IN THE COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

**IN RE ART FIERRO,
Relator.**

APPENDIX

- | | |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Tab 1 | Claudia Perez Ordaz-Perez's Application for a Place on the General Primary Ballot dated December 13, 2021 |
| Tab 2 | Letter from Art Fierro to Hon. Dora Oaxaca dated December 14, 2021; RE: Line: Claudia Ordaz-Perez – Ineligibility, Texas House District 79 |
| Tab 3 | Texas Constitution Art. III |
| Tab 4 | Texas Election Code Section 141.001 |
| Tab 5 | Email response from Dora Oaxaca to Art Fierro dated December 16, 2021; Subject Line: Claudia Ordaz Perez – Ineligibility Texas House District 79 |
| Tab 6 | Texas Election Code Section 273.061 |
| Tab 7 | Tex. R. App. P. 39.1 |
| Tab 8 | Tex. R. App. P. 38.1 |
| Tab 9 | Email from Melissa Soto to Unknown Recipient dated October 20, 2021; Subject Line Open Records Request regarding Claudia Ordaz's change of address |
| Tab 10 | Tex. Elec. Code Ann. Section 161.009 |

Tab 11	Tex. Elec. Code Section 145.003
Tab 12	Tex. Elec. Code Section 11.003
Tab 13	Tex. Elec. Code Section 11.004
Tab 14	Tex. Elec. Code Section 13.143
Tab 15	Tex. Gov't Code Section 311.011
Tab 16	Tex. Elec. Code Section 172.029
Tab 17	Affidavit of Art Fierro

TAB 1

DEC 13 P.M.
2:16 PM

APPLICATION FOR A PLACE ON THE GENERAL PRIMARY BALLOT

ALL INFORMATION IS REQUIRED TO BE PROVIDED UNLESS INDICATED AS OPTIONAL.¹ Failure to provide required information may result in rejection of application.

APPLICATION FOR A PLACE ON THE Democratic PARTY GENERAL PRIMARY BALLOT (Democratic or Republican)

TO: State/County Chair

I request that my name be placed on the above-named official primary ballot as a candidate for nomination to the office indicated below.

OFFICE SOUGHT (Include any place number or other distinguishing number, if any.)

INDICATE TERM

☒ FULL

☐ UNEXPIRED

FULL NAME (First, Middle, Last)

PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT*

PERMANENT RESIDENCE ADDRESS (Do not include a P.O. Box or Rural Route. If you do not have a residence address, describe location of residence.)

PUBLIC MAILING ADDRESS (Optional) (Address for which you receive campaign related correspondence, if available.)

CITY

STATE

ZIP

CITY

STATE

ZIP

PUBLIC EMAIL ADDRESS (Optional) (Address for which you receive campaign related emails, if available.)

OCCUPATION (Do not leave blank)

DATE OF BIRTH

VOTER REGISTRATION VOID NUMBER² (Optional)

TELEPHONE CONTACT INFORMATION (Optional)

Home:

Office:

Cell:

FELONY CONVICTION STATUS (You MUST check one)

LENGTH OF CONTINUOUS RESIDENCE AS OF DATE THIS APPLICATION WAS SWORN

☒ I have not been finally convicted of a felony.

☐ I have been finally convicted of a felony, but I have been pardoned or otherwise released from the resulting disabilities of that felony conviction and I have provided proof of this fact with the submission of this application.³

IN THE STATE OF TEXAS

35 year(s)

11 month(s)

IN TERRITORY/DISTRICT/PRECINCT FROM WHICH THE OFFICE SOUGHT IS ELECTED

year(s)

2 month(s)

*If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan or contain a title, nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election. Please review sections 52.031, 52.032 and 52.033 of the Texas Election Code regarding the rules for how names may be listed on the official ballot.

Before me, the undersigned authority, on this day personally appeared (name of candidate) Claudia Ordaz Perez who being by me here and now duly sworn, upon oath says:

"I, (name of candidate) Claudia Ordaz Perez, of EL PASO County, Texas,

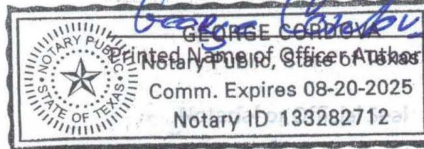
being a candidate for the office of State Rep. # 79, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the constitution and laws of this state. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code. I am aware that I must disclose any prior felony conviction, and if so convicted, must provide proof that I have been pardoned or otherwise released from the resulting disabilities of any such final felony conviction. I am aware that knowingly providing false information on the application regarding my possible felony conviction status constitutes a Class B misdemeanor. I further swear that the foregoing statements included in my application are in all things true and correct."

X

SIGNATURE OF CANDIDATE

Sworn to and subscribed before me this the 13 day of December, 2021, by Claudia Ordaz Perez.

Signature of Officer Authorized to Administer Oath⁴



Title of Officer Authorized to Administer Oath

TO BE COMPLETED BY CHAIR OR DESIGNEE: THIS APPLICATION IS ACCOMPANIED BY THE REQUIRED FILING FEE PAID BY:

☐ CASH ☒ CHECK ☐ MONEY ORDER ☐ CASHIERS CHECK OR ☐ PETITION IN LIEU OF A FILING FEE.

This document and \$ 750.00 filing fee or a nominating petition of _____ pages received. ☒ Voter Registration Status Verified

Date Received

Date Accepted

(See Section 1.007)

Signature of Chair or Designee

Print

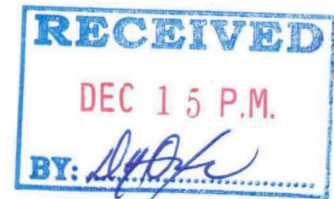
Reset

TAB 2

LETTERHEAD

December 14, 2021

Hon. Dora Oaxaca
Chairperson, El Paso County Democratic Party
1401 Montana Avenue, Ste E
El Paso, Texas 79902



RE: Claudia Ordaz-Perez – Ineligibility, Texas House District 79

Ms. Oaxaca,

Please allow this letter to serve as a request that you reject the application filed under oath by Claudia Ordaz-Perez for a place on the ballot as a candidate for Texas House Representative, District 79.

A party chair may declare a candidate ineligible if facts indicating that the candidate is ineligible are conclusively established by public records. Texas Constitution Art. III, Section 7, states that no person shall be a Representative unless they have been a resident of the district for one year preceding the election in which they shall be chosen. The date of the general election is November 8, 2022. Ms. Ordaz attempted to change her residency to District 79 on October 11, 2021 by changing her voter registration to an address of a home she allegedly owns in the district. Please see *Exhibit "A"*. The new voter registration filed by Ms. Ordaz is not effective until the 30th day after she submitted the address change, that is, on November 11, 2021. See *Tex. Election Code § 13.143(a); In Re Perez, 508 S.W.3d 500 (Tex. App—El Paso 2016, no pet.)*. Ms. Ordaz is unequivocally ineligible to be placed on the ballot for the November 2022 general election because she does not meet the Constitutional or statutory residency requirements. She will not be a resident of District 79 for a period of one year prior to the general election—she fails to satisfy this requirement by three days.

Additionally, Texas Election Code Sec. 141.001(a)(5)(A) provides, in relevant part, that “to be eligible as a candidate for, or elected or appointed to, a public elective office in this state, a person must have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the date of the regular filing deadline for a candidate's application for a place on the ballot.” The filing deadline was on December 13, 2021, and Ms. Ordaz filed her application on this date. However, the statute, as enacted by the Texas legislature, knowing of all other eligibility and residency requirements, requires Ms. Ordaz to reside in the district for six months prior to the deadline. At the latest, that period of time would start on June 13, 2021. However, Ms. Ordaz attests on her application, a public record, that she has lived in the district only two (2) months. For this additional reason, Ms. Ordaz is unequivocally ineligible, as she has not met the statutory residency requirement of living in the district for a period of 6 months preceding the filing deadline.

You as the Democratic Party Chair must strictly adhere to the requirements of a qualified candidate when reviewing the applications. The public documents indisputably reflect

LETTERHEAD

that Ms. Ordaz is unqualified to be placed on the ballot as a candidate for House District 79. For these reasons, I am requesting that you reject Claudia Ordaz Perez' application under your authority and duty as Party Chair.

Respectfully submitted,


Rep. Art Fierro
House District 79



From: Melissa Soto <MSoto@epcounty.com>

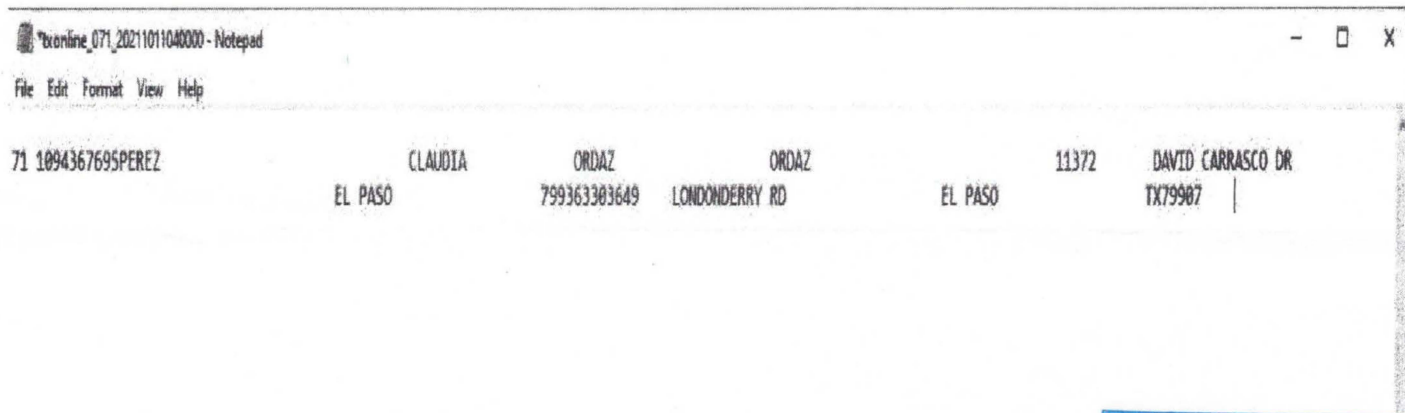
Sent: Wednesday, October 20, 2021 3:55 PM

To: [REDACTED]

Subject: Open Records Request

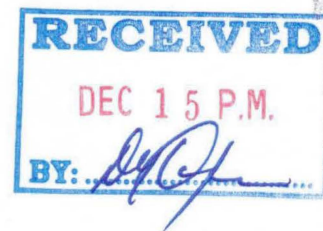
Good afternoon Sir,

In regards to your request and according to our records, Ms. Claudia Ordaz's address was changed on 10/12/2021 via a Texas online change. Below is her online application:

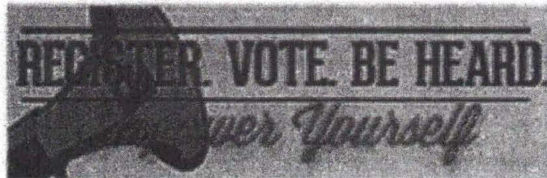


If you have any questions regarding the contents in this email, please contact me.

Regards,



Melissa Soto | Elections Administration Coordinator



500 East San Antonio St. Rm #314

El Paso, TX 79901

☎ 915-546-2154 | Ext. 4470

🌐 www.epcountyvotes.com

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OFFICIAL LEGAL
DOCUMENTS

ATTN: HON. DORA Oaxaca-Rivera

TAB 3



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

Vernon's Texas Statutes and Codes Annotated
Constitution of the State of Texas 1876 (Refs & Annos)
Article III. Legislative Department

Vernon's Ann. Texas Const. Art. 3, § 7

§ 7. Qualifications of Representatives

Currentness

Sec. 7. No person shall be a Representative, unless he be a citizen of the United States, and, at the time of his election, a qualified voter of this State, and shall have been a resident of this State two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-one years.

Credits

Amended Nov. 2, 1999.

Editors' Notes

INTERPRETIVE COMMENTARY

2007 Main Volume

To be a representative, the person must be a naturalized or native-born citizen of the United States, a qualified voter in the state at the time of his election, and he must have resided in the state two years next preceding his election, the last year thereof in the district for which he is chosen. He must be twenty-one years of age.

The less stringent age limit and residence requirement for representatives as compared with senators is common and carries out the bicameral principle; *i.e.*, that a higher age limit should make senators more conservative than the members of the House, thus acting as a salutary check upon the passage of improper laws. Correspondingly, an increased state residence requirement for senators was thought to serve the same purpose by making the members of the upper house more cognizant of the problems of the state.

Age limits and residence requirements have been the same in all of the state constitutions except in that of 1866 when, as in the case of senators and for the same reasons noted above, the state residence requirement was increased to five years and it was also required that a representative be a white citizen.

Notes of Decisions (8)

Vernon's Ann. Texas Const. Art. 3, § 7, TX CONST Art. 3, § 7

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

End of Document

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TAB 4



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

Vernon's Texas Statutes and Codes Annotated
Election Code (Refs & Annos)
Title 9. Candidates (Refs & Annos)
Chapter 141. Candidacy for Public Office Generally (Refs & Annos)
Subchapter A. Eligibility for Public Office

V.T.C.A., Election Code § 141.001

§ 141.001. Eligibility Requirements for Public Office

Effective: January 1, 2020

[Currentness](#)

(a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

- (1) be a United States citizen;
- (2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
- (3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:
 - (A) totally mentally incapacitated; or
 - (B) partially mentally incapacitated without the right to vote;
- (4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
 - (A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;
 - (B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;
 - (C) for a write-in candidate, the date of the election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made;

(6) on the date described by Subdivision (5), be registered to vote in the territory from which the office is elected; and

(7) satisfy any other eligibility requirements prescribed by law for the office.

(a-1) For purposes of satisfying the continuous residency requirement of Subsection (a)(5), a person who claims an intent to return to a residence after a temporary absence may establish that intent only if the person:

(1) has made a reasonable and substantive attempt to effectuate that intent; and

(2) has a legal right and the practical ability to return to the residence.

(a-2) Subsection (a-1) does not apply to a person displaced from the person's residence due to a declared local, state, or national disaster.

(a-3) The authority with whom an application for a place on a general primary election ballot is filed under [Section 172.022](#) shall, to the extent permitted by law, use Subsections (a) and (a-1) in determining whether a candidate meets the residency requirements for a public elective office.

(b) A statute outside this code supersedes Subsection (a) to the extent of any conflict.

(c) Subsection (a) does not apply to an office for which the federal or state constitution or a statute outside this code prescribes exclusive eligibility requirements.

(d) Subsection (a)(6) does not apply to a member of the governing body of a district created under [Section 52\(b\)\(1\) or \(2\)](#), [Article III](#), or [Section 59, Article XVI, Texas Constitution](#).

Credits

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by [Acts 2007, 80th Leg., ch. 614, § 28, eff. Sept. 1, 2007](#); [Acts 2015, 84th Leg., ch. 504 \(H.B. 484\), § 1, eff. Sept. 1, 2015](#); [Acts 2019, 86th Leg., ch. 1047 \(H.B. 831\), § 1, eff. Jan. 1, 2020](#).

[Notes of Decisions \(98\)](#)

V. T. C. A., Election Code § 141.001, TX ELECTION § 141.001

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

End of Document

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TAB 5

From: [Art Fierro](#)
To: [Rene Ordonez](#)
Subject: Fwd: Claudia Ordaz Perez - Ineligibility Texas House District 79
Date: Thursday, December 16, 2021 9:59:20 AM
Attachments: [Qualifications for All Public Offices.pdf](#)
[ART FIERRO Letter RE- ORDAZ PEREZ.pdf](#)
[Ordaz Perez Candidate Application .pdf](#)

Sent from my iPhone

Begin forwarded message:

From: El Paso County Democratic Party <epdemoparty@yahoo.com>
Date: December 16, 2021 at 9:56:59 AM MST
To: art5464@me.com
Cc: Elections Internet <Elections@sos.texas.gov>, "Hon. Daniel Anchondo" <daniel@anchondolaw.com>, Emma Acosta <emmaacosta617@gmail.com>, "Hon. Isela Castañon-Williams" <miselacw@yahoo.com>, Dora Oaxaca-Rivera <dyorivera@icloud.com>, edshack@juno.com
Subject: Re: Claudia Ordaz Perez - Ineligibility Texas House District 79
Reply-To: El Paso County Democratic Party <epdemoparty@yahoo.com>

Rep. Fierro,

Your request for rejection of the Application for a Place on the General Primary Ballot for Claudia Ordaz Perez (Office Sought State Representative #79) will not be accepted. Please see attached your letter via hand delivered to me on 12/15/21 @ 4PM and a copy of Representative Ordaz Perez application.

In accordance with the Secretary of State, Ordaz Perez meets all candidate qualifications for public office and all requirements for a place on the 2022 General Democratic Primary ballot, as per **Texas Constitution, Article 3, Section 7**. Ordaz Perez has attested her residency in the territory for which she is seeking public office for a period of two months, at date of application. Therefore, she will meet the twelve-month requirement of residency before the November 8, 2022 General Election.

Please find a copy of qualifications for public office as provided by the Secretary of State office.

Furthermore, I contacted and emailed the Texas Secretary of State of your request and received direct guidance from their legal department (Lena). Should you have any questions please contact the Texas

Secretary of State at Elections@sos.texas.gov or 1.800.252.8683.

Respectfully,
Dora Oaxaca
Chair, El Paso County Democratic Party



Various applications including SOSDirect and SOSUpload will be unavailable on Thurs., Dec. 16th, from 7:30 ^X p.m. until 8:30 p.m. [Maintenance details.](#)

Note - Navigational menus along with other non-content related elements have been removed for your convenience. Thank you for visiting us online.

Qualifications for All Public Offices

Public Office Sought	U.S. Citizen	Texas Resident	District Resident	Registered to Vote in Area of Office Sought	Minimum Age	Practicing Lawyer or Judge	Source Law	Term of Office
United States Senator	9 yrs.	Yes ^a	not req'd	not req'd	30 ^b	—	I § 3 ⁿ	6 yrs.
United States Representative	7 yrs.	Yes ^a	not req'd	not req'd	25 ^b	-	I § 2 ⁿ	2 yrs.
Governor	Yes	5 yrs.	-	not req'd	30 ^b	-	IV § 4 ⁱ	4 yrs.
Lieutenant Governor	Yes	5 yrs.	-	not req'd	30 ^b	-	IV § 16 ⁱ	4 yrs.
Attorney General	Yes	12 mo. ^c	-	Yes ^c	18 ^h	not req'd	IV § 22 ⁱ	4 yrs.
Comptroller of Public Accounts	Yes	12 mo. ^c	-	Yes ^c	18 ^h	-	IV § 23 ⁱ	4 yrs.
Commission of General Land Office	Yes	12 mo. ^c	-	Yes ^c	18 ^h	-	IV § 23 ⁱ	4 yrs.
Commissioner of Agriculture	Yes	12 mo. ^c	-	Yes ^c	18 ^h	-	IV § 23 ⁱ	4 yrs.
Railroad Commissioner	Yes	12 mo. ^c	-	Yes ^c	25 ^h	-	§ 81.01003, 81.01004 ^j	6 yrs.

Chief Justice & Justice, Supreme Court	Yes	12 mo. <u>c</u>	-	Yes <u>c</u>	35 <u>b</u>	10 yrs. <u>b</u>	V § 2 <u>i</u>	6 yrs.
Presiding Judge and Judge, Court of Criminal Appeals	Yes	12 mo. <u>c</u>	-	Yes <u>c</u>	35 <u>b</u>	10 yrs. <u>b</u>	V § 4 <u>i</u>	6 yrs.
State Senator	Yes	5 yrs. <u>b</u>	12 mo. <u>b</u>	not req'd <u>d</u>	26 <u>b</u>	-	III § 6 <u>i</u>	4 yrs./2 yrs. <u>o</u>
State Representative	Yes	2 yrs. <u>b</u>	12 mo. <u>b</u>	not req'd <u>d</u>	21 <u>b</u>	-	III § 7 <u>i</u>	2 yrs.
Member, State Board of Education	Yes	12 mo. <u>b</u>	12 mo. <u>b</u>	Yes <u>c</u>	26 <u>b</u>	-	§ 7.103 <u>k</u>	4 yrs./2 yrs. <u>p</u>
Chief Justice and Justice, Court of Appeals	Yes	12 mo. <u>c</u>	6 mo. <u>c</u>	Yes <u>c</u>	35 <u>b</u>	10 yrs. <u>b</u>	V § 6 <u>i</u>	6 yrs.
District Judge	Yes	2 yrs. <u>b</u>	2 yrs. <u>b</u>	Yes <u>c</u>	25 <u>b</u>	4 yrs. <u>b</u>	V § 7§ 24.001 <u>l</u>	4 yrs.
Criminal District Judge	Yes	2 yrs. <u>b</u>	2 yrs. <u>b</u>	Yes <u>c</u>	25 <u>b</u>	4 yrs. <u>b</u>	V § 7§ 24.001 <u>l</u>	4 yrs.
Family District Judge	Yes	2 yrs. <u>b</u>	2 yrs. <u>b</u>	Yes <u>c</u>	25 <u>b</u>	4 yrs. <u>b</u>	V § 7§ 24.001 <u>l</u>	4 yrs.
District Attorney <u>e</u>	Yes	12 mo. <u>c</u>	6 mo. <u>c</u>	Yes <u>c</u>	18 <u>h</u>	Yes	V § 21, 30§ 41.001 <u>l</u>	4 yrs.
Criminal District Attorney	Yes	12 mo. <u>c</u>	6 mo. <u>c</u>	Yes <u>c</u>	18 <u>h</u>	Yes	V § 30, Ch. 44,§ 41.001 <u>l</u>	4 yrs.
County Judge	Yes	12 mo. <u>c</u>	6 mo. <u>c</u>	Yes <u>c</u>	18 <u>h</u>	not req'd	V § 15 <u>i</u>	4 yrs.
Judge, County Court-at-Law <u>e</u>	Yes	2 yrs. <u>e</u>	6 mo. <u>c</u> , <u>e</u>	Yes <u>c</u>	25 <u>e</u>	4 yrs. <u>e</u>	V § 30§ 25.0014 <u>l</u>	4 yrs.
Judge, County Criminal Court<u>e</u>	Yes	2 yrs. <u>e</u>	6 mo. <u>c</u> , <u>e</u>	Yes <u>c</u>	25 <u>e</u>	4 yrs. <u>e</u>	V § 30§ 25.0014 <u>l</u>	4 yrs.

Judge, County Probate Court^e	Yes	2 yrs. ^e	6 mo. ^c , ^e	Yes ^c	25 ^e	4 yrs. ^e	V § 30§ 25.0014 ^l	4 yrs.
District Clerk	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	V § 9 ⁱ	4 yrs.
District & County Clerk	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	V § 20 ⁱ	4 yrs.
County Clerk	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	V § 20 ⁱ	4 yrs.
County Treasurer	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	XVI § 44 ⁱ	4 yrs.
County Surveyor	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	XVI § 44 ⁱ	4 yrs.
County Attorney	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	Yes	V § 21 § 41.001 ^l	4 yrs.
Sheriff^f	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	V § 23§ 85.0011 ^m	4 yrs.
Tax Assessor-Collector	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	VIII § 14 ⁱ	4 yrs.
County Commissioner	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	V § 18 ⁱ	4 yrs.
Constable^g	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	V § 18 § 86.0021 ^m	4 yrs.
Justice of the Peace	Yes	12 mo. ^c	6 mo. ^c	Yes ^c	18 ^h	-	V § 18 ⁱ	4 yrs.

- No duration specified but before date of general election.
- Before date of general election.
- As of December 13, 2021, if candidate for Democratic or Republican Party nomination. As of the date of nomination, if other party nominee for statewide, multi-county district, single-county district, county or precinct office. As of June 23, 2022, if independent candidate. As of November 8, 2022, if declared write-in candidate.
- The offices of state senator and state representative must be qualified voters as defined by Tex. Const. Art. VI, Sec 2. This definition provides that an individual must be eligible to register to vote but need not actually be a registered voter.
- Statutory qualifications may vary; contact your local party chair or the Secretary of State.
- Additional qualifications for sheriff: must have a high school diploma or high school equivalency degree and be eligible to be licensed under sections 1701.309, 1701.312, and 1701.502 of the Texas Occupations Code.
- Additional qualifications for constable: must be either (1) eligible to be licensed under sections 1701.309, 1701.312, and 1701.502 of the Texas Occupations Code AND (a) has at least an associate's degree, (b) is a special investigator under Article 2.122(a), Code of Criminal Procedure, or (c) is an honorably retired peace officer or honorably retired federal criminal investigator who holds a certificate of proficiency issued

under Section 1701.357, Texas Occupations Code OR (2) an active or inactive licensed peace officer under Chapter 1701 of the Texas Occupations Code.

- h. On first day of term to be filled at election. Note: A candidate might need to be age 18 at an earlier date than the first day of the term to be filled at election if the candidate is required to be a registered voter. See offices requiring voter registration.
- i. Citation refers to an article and section number of the Texas Constitution. For general qualifications for public office, please see Section 141.001, Texas Election Code.
- j. Citation refers to section number of the Texas Natural Resources Code.
- k. Citation refers to section number of the Texas Education Code.
- l. Citation refers to an article of the Texas Constitution and a section number of the Texas Government Code.
- m. Citation refers to an article and section number of the Texas Constitution and a section number of the Texas Local Government Code.
- n. Citation refers to an article and section number of the United States Constitution.
- o. All State Board of Education positions are up for election in 2022 following redistricting in 2021. In the first post-redistricting election seven members shall serve two-year terms and eight members shall serve four-year terms. Members shall draw lots to determine who serves which terms. [Educ. Code § 7.104]
- p. All State Senate seats are up for election in 2022 following redistricting in 2021. In the first post-redistricting election members are divided into two classes; one class shall serve a 2-year term and the other class shall serve a 4-year term. Members shall draw lots to determine who serves which terms. [Tex. Const. art. 3, § 3].

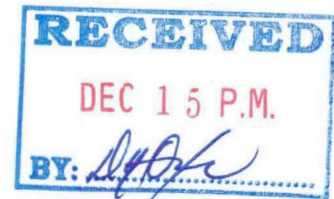
Special Note 1: Please be advised that due to the removal of the staggering schedule from Article XVI, Section 65 of the Texas Constitution, there are various local offices which may have been created by your county commissioners court or the Texas Legislature but are not listed in this guide. For further information on filing for county offices not listed, please contact the county clerk's/elections administrator's office or the office of the Secretary of State.

Special Note 2: Please be advised that executive and judicial officers elected in a statewide election, state appellate and district judges, members of the State Board of Education, and district or criminal district attorneys (among others) are subject to the provisions of Chapter 572 of the Texas Government Code, which relates to personal financial disclosure, standards of conduct, and conflicts of interest issues. For further information on the applicability and requirements of Chapter 572, candidates should contact the Texas Ethics Commission.

LETTERHEAD

December 14, 2021

Hon. Dora Oaxaca
Chairperson, El Paso County Democratic Party
1401 Montana Avenue, Ste E
El Paso, Texas 79902



RE: Claudia Ordaz-Perez – Ineligibility, Texas House District 79

Ms. Oaxaca,

Please allow this letter to serve as a request that you reject the application filed under oath by Claudia Ordaz-Perez for a place on the ballot as a candidate for Texas House Representative, District 79.

A party chair may declare a candidate ineligible if facts indicating that the candidate is ineligible are conclusively established by public records. Texas Constitution Art. III, Section 7, states that no person shall be a Representative unless they have been a resident of the district for one year preceding the election in which they shall be chosen. The date of the general election is November 8, 2022. Ms. Ordaz attempted to change her residency to District 79 on October 11, 2021 by changing her voter registration to an address of a home she allegedly owns in the district. Please see *Exhibit "A"*. The new voter registration filed by Ms. Ordaz is not effective until the 30th day after she submitted the address change, that is, on November 11, 2021. See *Tex. Election Code § 13.143(a); In Re Perez, 508 S.W.3d 500 (Tex. App—El Paso 2016, no pet.)*. Ms. Ordaz is unequivocally ineligible to be placed on the ballot for the November 2022 general election because she does not meet the Constitutional or statutory residency requirements. She will not be a resident of District 79 for a period of one year prior to the general election—she fails to satisfy this requirement by three days.

Additionally, Texas Election Code Sec. 141.001(a)(5)(A) provides, in relevant part, that “to be eligible as a candidate for, or elected or appointed to, a public elective office in this state, a person must have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the date of the regular filing deadline for a candidate's application for a place on the ballot.” The filing deadline was on December 13, 2021, and Ms. Ordaz filed her application on this date. However, the statute, as enacted by the Texas legislature, knowing of all other eligibility and residency requirements, requires Ms. Ordaz to reside in the district for six months prior to the deadline. At the latest, that period of time would start on June 13, 2021. However, Ms. Ordaz attests on her application, a public record, that she has lived in the district only two (2) months. For this additional reason, Ms. Ordaz is unequivocally ineligible, as she has not met the statutory residency requirement of living in the district for a period of 6 months preceding the filing deadline.

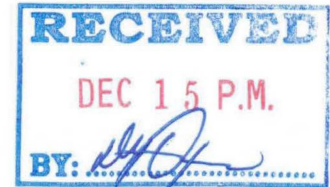
You as the Democratic Party Chair must strictly adhere to the requirements of a qualified candidate when reviewing the applications. The public documents indisputably reflect

LETTERHEAD

that Ms. Ordaz is unqualified to be placed on the ballot as a candidate for House District 79. For these reasons, I am requesting that you reject Claudia Ordaz Perez' application under your authority and duty as Party Chair.

Respectfully submitted,


Rep. Art Fierro
House District 79



From: Melissa Soto <MSoto@epcounty.com>

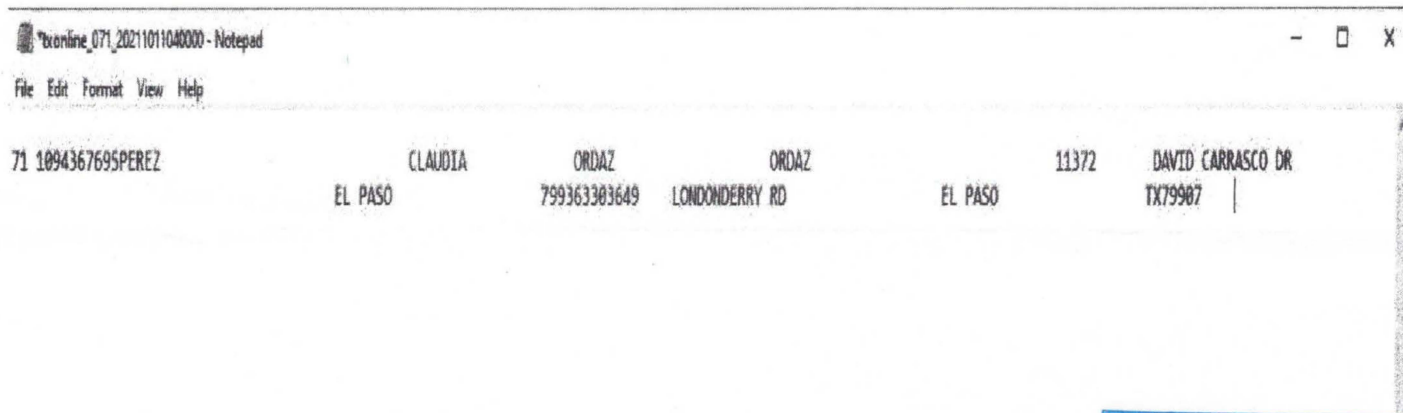
Sent: Wednesday, October 20, 2021 3:55 PM

To: [REDACTED]

Subject: Open Records Request

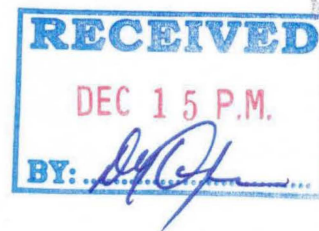
Good afternoon Sir,

In regards to your request and according to our records, Ms. Claudia Ordaz's address was changed on 10/12/2021 via a Texas online change. Below is her online application:



If you have any questions regarding the contents in this email, please contact me.

Regards,



Melissa Soto | Elections Administration Coordinator



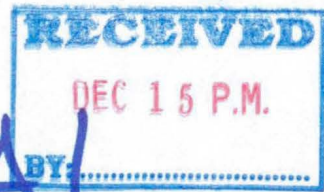
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El Paso, TX 79901

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OFFICIAL LEGAL
DOCUMENTS

ATTN: HON. DORA Oaxaca-Rivera

DEC 13 P.M.

2:16 PM

APPLICATION FOR A PLACE ON THE GENERAL PRIMARY BALLOT

BY: 40

ALL INFORMATION IS REQUIRED TO BE PROVIDED UNLESS INDICATED AS OPTIONAL.¹ Failure to provide required information may result in rejection of application.

APPLICATION FOR A PLACE ON THE Democratic PARTY GENERAL PRIMARY BALLOT
(Democratic or Republican)

TO: State/County Chair

I request that my name be placed on the above-named official primary ballot as a candidate for nomination to the office indicated below.

OFFICE SOUGHT (Include any place number or other distinguishing number, if any.)

INDICATE TERM

☒ FULL

☐ UNEXPIRED

FULL NAME (First, Middle, Last)

PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT*

PERMANENT RESIDENCE ADDRESS (Do not include a P.O. Box or Rural Route. If you do not have a residence address, describe location of residence.)

PUBLIC MAILING ADDRESS (Optional) (Address for which you receive campaign related correspondence, if available.)

CITY

STATE

ZIP

CITY

STATE

ZIP

PUBLIC EMAIL ADDRESS (Optional) (Address for which you receive campaign related emails, if available.)

OCCUPATION (Do not leave blank)

DATE OF BIRTH

VOTER REGISTRATION VOID NUMBER² (Optional)

TELEPHONE CONTACT INFORMATION (Optional)

Home:

Office:

Cell:

FELONY CONVICTION STATUS (You MUST check one)

LENGTH OF CONTINUOUS RESIDENCE AS OF DATE THIS APPLICATION WAS SWORN

☒ I have not been finally convicted of a felony.

☐ I have been finally convicted of a felony, but I have been pardoned or otherwise released from the resulting disabilities of that felony conviction and I have provided proof of this fact with the submission of this application.³

IN THE STATE OF TEXAS

35 year(s)

11 month(s)

IN TERRITORY/DISTRICT/PRECINCT FROM WHICH THE OFFICE SOUGHT IS ELECTED

2 year(s)

2 month(s)

*If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan or contain a title, nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election. Please review sections 52.031, 52.032 and 52.033 of the Texas Election Code regarding the rules for how names may be listed on the official ballot.

Before me, the undersigned authority, on this day personally appeared (name of candidate) Claudia Ordaz Perez who being by me here and now duly sworn, upon oath says:

"I, (name of candidate) Claudia Ordaz Perez, of EL PASO County, Texas,

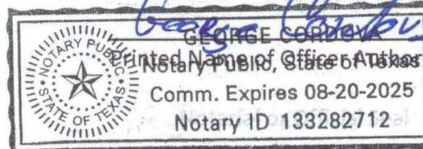
being a candidate for the office of State Rep. # 79, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the constitution and laws of this state. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code. I am aware that I must disclose any prior felony conviction, and if so convicted, must provide proof that I have been pardoned or otherwise released from the resulting disabilities of any such final felony conviction. I am aware that knowingly providing false information on the application regarding my possible felony conviction status constitutes a Class B misdemeanor. I further swear that the foregoing statements included in my application are in all things true and correct."

X

SIGNATURE OF CANDIDATE

Sworn to and subscribed before me this the 13 day of December, 2021, by Claudia Ordaz Perez.

Signature of Officer Authorized to Administer Oath⁴



Title of Officer Authorized to Administer Oath

TO BE COMPLETED BY CHAIR OR DESIGNEE: THIS APPLICATION IS ACCOMPANIED BY THE REQUIRED FILING FEE PAID BY:

☐ CASH ☒ CHECK ☐ MONEY ORDER ☐ CASHIERS CHECK OR ☐ PETITION IN LIEU OF A FILING FEE.

This document and \$ 750.00 filing fee or a nominating petition of pages received. ☒ Voter Registration Status Verified

Date Received

Date Accepted

(See Section 1.007)

Signature of Chair or Designee

Print

Reset

TAB 6



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

Vernon's Texas Statutes and Codes Annotated
Election Code (Refs & Annos)
Title 16. Miscellaneous Provisions
Chapter 273. Criminal Investigation and Other Enforcement Proceedings
Subchapter D. Mandamus by Appellate Court (Refs & Annos)

V.T.C.A., Election Code § 273.061

§ 273.061. Jurisdiction

Effective: December 2, 2021

[Currentness](#)

(a) The supreme court or a court of appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election or a political party convention, regardless of whether the person responsible for performing the duty is a public officer.

(b) The court of criminal appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the provision, sequestration, transfer, or impoundment of evidence in or records relating to a criminal investigation conducted under this code or conducted in connection with the conduct of an election or political party convention. If a writ of mandamus is issued under this subsection, it shall include an order requiring the provision, sequestration, transfer, or impoundment of the evidence or record.

Credits

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by [Acts 2021, 87th Leg., 2nd C.S., ch. 1 \(S.B. 1\), § 8.04, eff. Dec. 2, 2021](#).

[Notes of Decisions \(132\)](#)

V. T. C. A., Election Code § 273.061, TX ELECTION § 273.061

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

End of Document

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TAB 7

Vernon's Texas Rules Annotated

Texas Rules of Appellate Procedure

Section Two. Appeals from Trial Court Judgments and Orders (Refs & Annos)

Rule 39. Oral Argument; Decision Without Argument (Refs & Annos)

TX Rules App.Proc., Rule 39.1

39.1. Right to Oral Argument

Effective: June 1, 2020

[Currentness](#)

A party who has filed a brief and who has timely requested oral argument may argue the case to the court unless the court, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

- (a) the appeal is frivolous;
- (b) the dispositive issue or issues have been authoritatively decided;
- (c) the facts and legal arguments are adequately presented in the briefs and record; or
- (d) the decisional process would not be significantly aided by oral argument.

Credits

Eff. Sept. 1, 1997. Amended by Supreme Court March 10, 2008, and Aug. 20, 2008, eff. Sept. 1, 2008. Approved by Court of Criminal Appeals Sept. 30, 2008, eff. Sept. 30, 2008.

Editors' Notes

NOTES AND COMMENTS

Comment to 2008 change: Subdivision 39.1 is amended to provide for oral argument unless the court determines it is unnecessary and to set out the reasons why argument may be unnecessary. The appellate court must evaluate these reasons in view of the traditional importance of oral argument. The court need not agree on, and generally should not announce, a specific reason or reasons for declining oral argument.

Rules App. Proc., Rule 39.1, TX R APP Rule 39.1

Current with amendments received through October 15, 2021. Some rules may be more current, see credits for details.

TAB 8

Vernon's Texas Rules Annotated
Texas Rules of Appellate Procedure
Section Two. Appeals from Trial Court Judgments and Orders (Refs & Annos)
Rule 38. Requisites of Briefs (Refs & Annos)

TX Rules App.Proc., Rule 38.1

38.1. Appellant's Brief

Effective: June 1, 2020

[Currentness](#)

The appellant's brief must, under appropriate headings and in the order here indicated, contain the following:

- (a) *Identity of Parties and Counsel.* The brief must give a complete list of all parties to the trial court's judgment or order appealed from, and the names and addresses of all trial and appellate counsel, except as otherwise provided in Rule 9.8.
- (b) *Table of Contents.* The brief must have a table of contents with references to the pages of the brief. The table of contents must indicate the subject matter of each issue or point, or group of issues or points.
- (c) *Index of Authorities.* The brief must have an index of authorities arranged alphabetically and indicating the pages of the brief where the authorities are cited.
- (d) *Statement of the Case.* The brief must state concisely the nature of the case (e.g., whether it is a suit for damages, on a note, or involving a murder prosecution), the course of proceedings, and the trial court's disposition of the case. The statement should be supported by record references, should seldom exceed one-half page, and should not discuss the facts.
- (e) *Any Statement Regarding Oral Argument.* The brief may include a statement explaining why oral argument should or should not be permitted. Any such statement must not exceed one page and should address how the court's decisional process would, or would not, be aided by oral argument. As required by Rule 39.7, any party requesting oral argument must note that request on the front cover of the party's brief.
- (f) *Issues Presented.* The brief must state concisely all issues or points presented for review. The statement of an issue or point will be treated as covering every subsidiary question that is fairly included.
- (g) *Statement of Facts.* The brief must state concisely and without argument the facts pertinent to the issues or points presented. In a civil case, the court will accept as true the facts stated unless another party contradicts them. The statement must be supported by record references.
- (h) *Summary of the Argument.* The brief must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief. This summary must not merely repeat the issues or points presented for review.

(i) *Argument*. The brief must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record.

(j) *Prayer*. The brief must contain a short conclusion that clearly states the nature of the relief sought.

(k) *Appendix in Civil Cases*.

(1) Necessary Contents. Unless voluminous or impracticable, the appendix must contain a copy of:

(A) the trial court's judgment or other appealable order from which relief is sought;

(B) the jury charge and verdict, if any, or the trial court's findings of fact and conclusions of law, if any; and

(C) the text of any rule, regulation, ordinance, statute, constitutional provision, or other law (excluding case law) on which the argument is based, and the text of any contract or other document that is central to the argument.

(2) Optional Contents. The appendix may contain any other item pertinent to the issues or points presented for review, including copies or excerpts of relevant court opinions, laws, documents on which the suit was based, pleadings, excerpts from the reporter's record, and similar material. Items should not be included in the appendix to attempt to avoid the page limits for the brief.

Credits

Eff. Sept. 1, 1997. Amended by Supreme Court March 10, 2008, and Aug. 20, 2008, eff. Sept. 1, 2008. Approved by Court of Criminal Appeals Sept. 30, 2008, eff. Sept. 30, 2008.

[Notes of Decisions \(1101\)](#)

Rules App. Proc., Rule 38.1, TX R APP Rule 38.1

Current with amendments received through October 15, 2021. Some rules may be more current, see credits for details.

TAB 9

From: Melissa Soto <MSoto@epcounty.com>

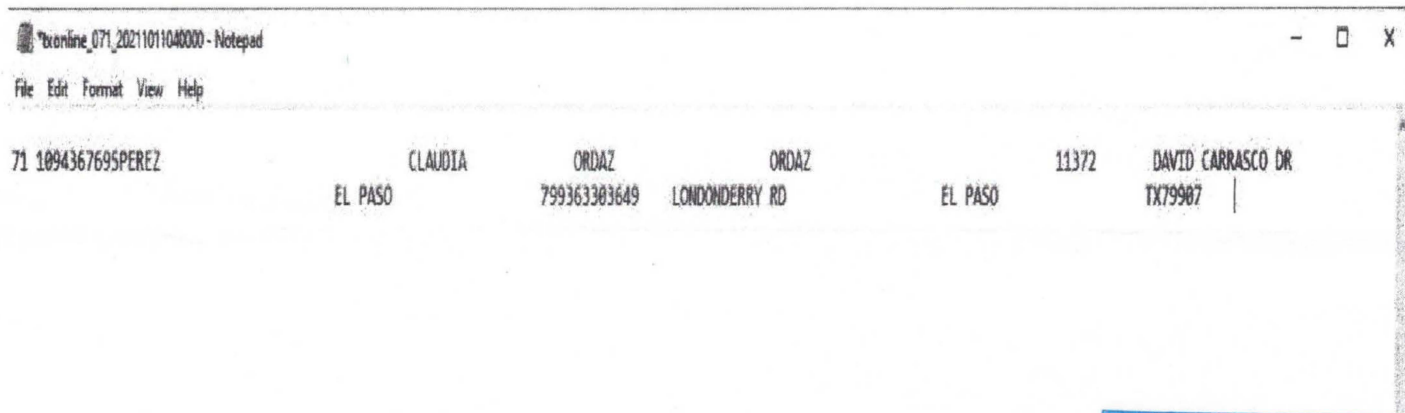
Sent: Wednesday, October 20, 2021 3:55 PM

To: [REDACTED]

Subject: Open Records Request

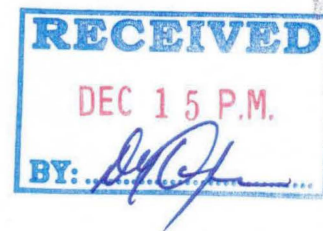
Good afternoon Sir,

In regards to your request and according to our records, Ms. Claudia Ordaz's address was changed on 10/12/2021 via a Texas online change. Below is her online application:

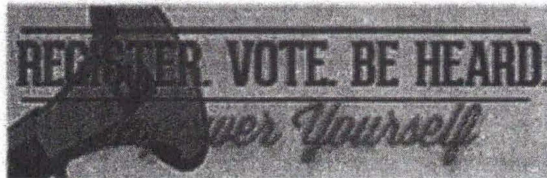


If you have any questions regarding the contents in this email, please contact me.

Regards,



Melissa Soto | Elections Administration Coordinator



500 East San Antonio St. Rm #314

El Paso, TX 79901

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TAB 10

Vernon's Texas Statutes and Codes Annotated
Election Code (Refs & Annos)
Title 10. Political Parties
Subtitle A. Introductory Provisions
Chapter 161. General Provisions (Refs & Annos)

V.T.C.A., Election Code § 161.009

§ 161.009. Party Officer Subject to Mandamus

[Currentness](#)

The performance of a duty placed by this code on an officer of a political party is enforceable by writ of mandamus in the same manner as if the party officer were a public officer.

Credits

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986.

[Notes of Decisions \(23\)](#)

V. T. C. A., Election Code § 161.009, TX ELECTION § 161.009

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

TAB 11



KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Prior Version Held Unconstitutional as Applied by [Texas Democratic Party v. Benkiser](#), 5th Cir.(Tex.), Aug. 03, 2006



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

Vernon's Texas Statutes and Codes Annotated

Election Code (Refs & Annos)

Title 9. Candidates (Refs & Annos)

Chapter 145. Withdrawal, Death and Ineligibility of Candidate (Refs & Annos)

Subchapter A. General Provisions

V.T.C.A., Election Code § 145.003

§ 145.003. Administrative Declaration of Ineligibility

Effective: September 1, 2021

[Currentness](#)

(a) Except for a judicial action in which a candidate's eligibility is in issue, a candidate may be declared ineligible only as provided by this section.

(b) A candidate in the general election for state and county officers may be declared ineligible before the 30th day preceding election day by:

(1) the party officer responsible for certifying the candidate's name for placement on the general election ballot, in the case of a candidate who is a political party's nominee; or

(2) the authority with whom the candidate's application for a place on the ballot is required to be filed, in the case of an independent candidate.

(c) A candidate in an election other than the general election for state and county officers may be declared ineligible before the beginning of early voting by personal appearance by the authority with whom an application for a place on the ballot for the office sought by the candidate is required to be filed.

(d) The presiding officer of the final canvassing authority for the office sought by a candidate may declare the candidate ineligible after the polls close on election day and, except as provided by Subsection (e), before a certificate of election is issued.

(e) In the case of a candidate for governor or lieutenant governor, a declaration of ineligibility by the final canvassing authority's presiding officer may not be made after the final canvass for that office is completed.

(f) A candidate may be declared ineligible only if:

- (1) the information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office; or
- (2) facts indicating that the candidate is ineligible are conclusively established by another public record.
- (g) When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate's eligibility, the appropriate authority shall promptly review the record. If the authority determines that the record establishes ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.
- (h) If a candidate is declared ineligible after the deadline for omitting an ineligible candidate's name from the ballot, the authority making the declaration shall promptly certify in writing the declaration of ineligibility to the canvassing authority for the election.
- (i) If a candidate is declared ineligible, the authority making the declaration shall promptly give written notice of the declaration of ineligibility to the candidate.
- (j) This section does not apply to a challenge on an application under [Section 141.034](#).

Credits

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by [Acts 1991, 72nd Leg., ch. 203, § 2.58](#); [Acts 1991, 72nd Leg., ch. 554, § 29, eff. Sept. 1, 1991](#); [Acts 1993, 73rd Leg., ch. 728, § 56, eff. Sept. 1, 1993](#); [Acts 2021, 87th Leg., ch. 711 \(H.B. 3107\), § 85, eff. Sept. 1, 2021](#).

[Notes of Decisions \(43\)](#)

V. T. C. A., Election Code § 145.003, TX ELECTION § 145.003

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

TAB 12

Vernon's Texas Statutes and Codes Annotated
Election Code (Refs & Annos)
Title 2. Voter Qualifications and Registration
Chapter 11. Qualifications and Requirements for Voting (Refs & Annos)

V.T.C.A., Election Code § 11.003

§ 11.003. Place for Voting

[Currentness](#)

Except as otherwise provided by this code, a person may vote only in the election precinct in which the person resides.

Credits

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986.

[Notes of Decisions \(22\)](#)

V. T. C. A., Election Code § 11.003, TX ELECTION § 11.003

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

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TAB 13

Vernon's Texas Statutes and Codes Annotated
Election Code (Refs & Annos)
Title 2. Voter Qualifications and Registration
Chapter 11. Qualifications and Requirements for Voting (Refs & Annos)

V.T.C.A., Election Code § 11.004

§ 11.004. Voting in Precinct of Former Residence

Currentness

A registered voter who changes residence to another election precinct in the same county, if otherwise eligible, may vote a full ballot in the election precinct of former residence until the voter's registration becomes effective in the new precinct if the voter satisfies the residence requirements prescribed by [Section 63.0011](#) and submits a statement of residence in accordance with that section.

Credits

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, § 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, § 1, eff. Sept. 1, 1995.

[Notes of Decisions \(1\)](#)

V. T. C. A., Election Code § 11.004, TX ELECTION § 11.004

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

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TAB 14



KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Vernon's Texas Statutes and Codes Annotated
Election Code (Refs & Annos)
Title 2. Voter Qualifications and Registration
Chapter 13. Application for Registration; Initial Registration
Subchapter F. Initial Registration

V.T.C.A., Election Code § 13.143

§ 13.143. Effective Date of Registration; Period of Effectiveness

Effective: September 1, 2021

[Currentness](#)

(a) Except as provided by Subsections (b) and (e), if an applicant's registration application is approved, the registration becomes effective on the 30th day after the date the application is submitted to the registrar or on the date the applicant becomes 18 years of age, whichever is later.

(b) A registration is effective for purposes of early voting if it will be effective on election day.

(c) A registration is effective until canceled under this code.

(d) For purposes of determining the effective date of a registration, an application submitted by:

(1) mail is considered to be submitted to the registrar on the date it is placed with postage prepaid and properly addressed in the United States mail; or

(2) telephonic facsimile machine is considered to be submitted to the registrar on the date the transmission is received by the registrar, subject to Subsection (d-2).

(d-1) The date indicated by the post office cancellation mark is considered to be the date the application was placed in the mail unless proven otherwise.

(d-2) For a registration application submitted by telephonic facsimile machine to be effective, a copy of the original registration application containing the voter's original signature must be submitted by personal delivery or mail and be received by the registrar not later than the fourth business day after the transmission by telephonic facsimile machine is received.

(e) If the 30th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, an application is considered to be timely if it is submitted to the registrar on or before the next regular business day.

Credits

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 416, § 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, § 2.31; Acts 1991, 72nd Leg., ch. 554, § 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 916, § 6, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 454, § 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, § 5, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., ch. 1178 (S.B. 910), § 3, eff. Sept. 1, 2013; Acts 2021, 87th Leg., ch. 711 (H.B. 3107), § 14, eff. Sept. 1, 2021.

Notes of Decisions (3)

V. T. C. A., Election Code § 13.143, TX ELECTION § 13.143

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

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TAB 15

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 3. Legislative Branch (Refs & Annos)
Subtitle B. Legislation
Chapter 311. Code Construction Act (Refs & Annos)
Subchapter B. Construction of Words and Phrases (Refs & Annos)

V.T.C.A., Government Code § 311.011

§ 311.011. Common and Technical Usage of Words

Currentness

- (a) Words and phrases shall be read in context and construed according to the rules of grammar and common usage.
- (b) Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

Credits

Acts 1985, 69th Leg., ch. 479, § 1, eff. Sept. 1, 1985.

Notes of Decisions (76)

O'CONNOR'S ANNOTATIONS

Ex parte R.P.G.P., 623 S.W.3d 313, __ (Tex.2021). “Statutes are analyzed as a cohesive, contextual whole with the goal of effectuating the Legislature’s intent, which we presume is a just and reasonable result. Unless the context or the statute instructs otherwise, our analysis begins with the plain language of the statute read in context, not in isolation. Past versions of a statute may also be consulted to discern intent with respect to language that has been amended to its current form.” (Internal quotes omitted.)

McGibney v. Rauhauser, 549 S.W.3d 816, 830 (Tex.App.--Fort Worth 2018, pet. denied). “[W]hen considering the meaning of a word chosen by the legislature, we look at how the word is applied in the larger legislative scheme.”

Mitchell v. State, 473 S.W.3d 503, 514 (Tex.App.--El Paso 2015, no pet.). “[W]hen determining the meaning of an undefined term used in a statute, a court should first look to ‘definitions prescribed by the Legislature and any technical or particular meaning the words have acquired’ in accordance with the construction, and if no such meaning is apparent, then to ‘their plain and common meaning[.]’ At 515: Thus, in order to discern the Legislature’s intent in using an undefined term in a statute, a court may look to, among other things, prior court opinions construing the term in other contexts. Further, a court may presume that the Legislature was aware of relevant prior case law when it enacts a statute.” See also *Turley v. State*, 597 S.W.3d 30, 42 (Tex.App.--Houston [14th Dist.] 2020, pet. granted 6-17-20) (court may consult dictionary definitions to determine undefined term’s plain meaning).

V. T. C. A., Government Code § 311.011, TX GOVT § 311.011

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

End of Document

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TAB 16

Vernon's Texas Statutes and Codes Annotated
Election Code (Refs & Annos)
Title 10. Political Parties
Subtitle B. Parties Nominating by Primary Election
Chapter 172. Primary Elections (Refs & Annos)
Subchapter B. Application for Place on Ballot

V.T.C.A., Election Code § 172.029

§ 172.029. Submission and Compilation of Information Pertaining To Candidates

Effective: June 14, 2013

[Currentness](#)

(a) For each general primary election, the state chair and each county chair shall electronically submit the following information:

(1) the name of each candidate who files an application for a place on the ballot with the chair, including an application for the office of a political party;

(2) the name of each candidate whose application meets the requirements of [Section 172.021](#) and is accepted by the chair, as the name is to appear on the ballot;

(3) the candidate's address as shown on the application;

(4) the date on which the candidate filed the application; and

(5) any additional information required by the secretary of state.

(b) The secretary of state shall continuously maintain an online database of information submitted under this section. The database must be accessible by the county and precinct chairs of the party that submitted the information. Any changes in the party's county or precinct chairs shall be reported to the secretary of state. The secretary of state shall adopt rules to implement this section, including rules regarding the public availability of information submitted under this section.

(c) The secretary of state may by rule prescribe a deadline by which the state chair must deliver the chair's submission regarding a candidate to the secretary of state, and each county chair shall deliver a copy of the chair's submission regarding a candidate to the county clerk, the state chair, and the secretary of state when the chair accepts the application. The secretary of state may by rule prescribe a deadline for the delivery of a submission under this subsection.

(d) The secretary of state shall be notified if a candidate withdraws, dies, or is declared ineligible, or if the candidate's application is determined not to comply with the applicable requirements. The secretary of state shall adopt rules implementing this subsection.

(e) The secretary of state shall:

- (1) archive and keep available for inspection a list of all candidates for whom information has been submitted under this section; and
- (2) prescribe rules for submitting the list electronically and methodology for distribution to each county clerk and state chair.

Credits

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986. Amended by [Acts 1997, 75th Leg., ch. 864, § 130, eff. Sept. 1, 1997](#); [Acts 2009, 81st Leg., ch. 360, § 1, eff. June 19, 2009](#); [Acts 2011, 82nd Leg., ch. 570 \(H.B. 3270\), § 1, eff. Sept. 1, 2011](#); [Acts 2013, 83rd Leg., ch. 1055 \(H.B. 3103\), § 3, eff. June 14, 2013](#).

[Notes of Decisions \(22\)](#)

V. T. C. A., Election Code § 172.029, TX ELECTION § 172.029

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

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TAB 17

IN THE COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE PETER ARTHUR FIERRO a/k/a ART FIERRO,
Relator.

AFFIDAVIT OF PETER ARTHUR FIERRO
a/k/a ART FIERRO

STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned notary, on this day personally appeared **PETER ARTHUR FIERRO a/k/a ART FIERRO**, the affiant, a person whose identity is known to me. After I administered an oath, affiant testified as follows:

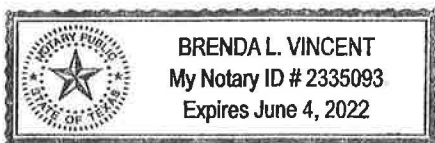
1. “My name is **PETER ARTHUR FIERRO a/k/a ART FIERRO** (“Affiant”). I am over the age of eighteen years and competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I am the Relator in the Petition for Writ of Mandamus filed with the Eighth Court of Appeals, El Paso, Texas, in the above-styled matter.
3. The Petition for Writ of Mandamus contains exhibits to the matter at issue. Specifically, Tab 1, Tab 2, Tab 5, and Tab 9.
4. Tab 1 is a true and correct copy of Claudia Ordaz-Perez’s Application for Place on the General Primary Ballot dated December 13, 2021, which I obtained from the El Paso County Democratic Party.

5. Tab 2 is a true and correct copy of correspondence I prepared on December 14, 2021 and delivered on December 15, 2021 to Dora Oaxaca, Chairperson for the El Paso County Democratic Party.
6. Tab 5 is a true and correct copy of correspondence I received from Dora Oaxaca, Subject Line: Claudia Ordaz Perez Ineligibility Texas House District 79. I received the correspondence on December 16, 2021, from Dora Oaxaca along with the following attachments: Texas Secretary of State table stating Qualifications for All Public Office, my correspondence to Oaxaca dated December 14, 2021, correspondence from the El Paso County Elections Department regarding change of voter registration address for Ordaz-Perez, and Application for Place on General Primary Ballot submitted by Ordaz-Perez to be a candidate for Texas House Representative for District 79 to the El Paso County Democratic Party.
7. Tab 9 is a true and correct copy I obtained by and through an open records request from the El Paso County Elections Department regarding Claudia Perez-Ordaz's change of address for her voter registration.



**PETER ARTHUR FIERRO a/k/a
ART FIERRO, Affiant**

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this 30th day of December, 2021.



**NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS**

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Sofia Hardin on behalf of Rene Ordonez
Bar No. 15300220
shardin@bomwlaw.com
Envelope ID: 60412485
Status as of 12/31/2021 8:19 AM MST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Dora Oaxaca		epdemoparty@yahoo.com	12/30/2021 4:41:18 PM	SENT
Claudia Ordaz-Perez		claudia@ordazperez.com	12/30/2021 4:41:18 PM	SENT
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